IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Revision No. 783/2001
(Old No. 1720 of 1997)

State of U.P. ……Revisionist

Versus

Raja Verma S/o Ravindra Nath …….Respondent

Hon'ble Irshad Hussain, J.

Heard Sri H.C.Pandey A.G.A. for State and perused the record.

The revision under Section 397/401 of the Code of Criminal Procedure (for short 'Code') was preferred against the judgment and order dated 6.8.1997 passed by the then Sessions Judge, Almora in criminal appeal no.18/1993. The appeal was preferred by the Collector, Almora whereby the Vehicle-a Maruti Van was confiscated in view of the fact that nine bags of pouches containing country made liquor without licence was recovered from it when it was intercepted by the police. The appeal had been allowed only on the ground that under Section 53 of the Excise Act it is mandatory that the search should be made by an officer not below the Sub-Inspector. It was not so in this case and considering the legal requirement, the proceedings in regard to the recovery were found vitiated for want of the compliance of the mandatory legal provision. Considering this, the order of the appellate court is just and proper and no interference is required in it. The revision is devoid of merit and is hereby dismissed. Consign.

(Irshad Hussain, J.)

Date 12.04.2004
Rawat